



A Statement on providing quality of service information to consumers

A Consultation on quality parameters including a
Notification and Draft Direction

Consultation

Publication date: **1 September 2004**

Closing Date for Responses: **4 October 2004**

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Section 1

Summary

- 1.1 Article 22 of the Universal Service Directive (Directive 2002/22/EC) requires Member States to ensure that national regulatory authorities (Ofcom) are able to require undertakings providing public electronic communication services (PECS) to publish comparable, adequate and up-to-date information for end-users (End-Users) on the quality of their services (QoS Information). In the UK, this was implemented by General Condition (GC) 21.
- 1.2 At the end of last year a consultation document (Consultation Document) *Reporting Quality of Service Information to Consumers* was published setting out a range of options in relation to the provision of QoS Information to End-Users. This consultation incorporated a regulatory impact assessment, and a consumer protection policy review.
- 1.3 Having considered all responses, analysed the existing and publicly-available consumer research, and considered European comparisons, Ofcom believes that:
 - the provision of comparable QoS Information is beneficial to End-Users and Ofcom is committed to ensuring that it is supplied;
 - in order to fulfil this objective, and subject to further consultation, fixed-line service providers (Fixed Line Service Providers) of a certain size shall provide comparable, adequate, and up to date information to End-Users. This information shall meet with Ofcom's satisfaction;
 - mobile service providers (Mobile Service Providers) shall be encouraged to continue to provide similar QoS Information on a voluntary basis. Ofcom will monitor the delivery of information to End-Users; and,
 - stakeholders will be asked to establish and maintain co-regulatory groups (Co-regulatory Groups) to ensure the adequate provision of information, including data collection and publication.

- 1.4 The approaches differ between the fixed and mobile sectors for three main reasons:

Stakeholder responses generally favoured a more prominent regulatory role in the fixed-line market only.

The Mobile Service Providers have shown a greater willingness to self-provide information and the mobile scheme has not suffered from membership and organisational difficulties like their fixed-line counterparts. The four largest Mobile Service Providers in the UK participate in the current co-regulatory scheme.

The mobile market operates in a different competitive environment; the market share is more evenly distributed between several operators.

- 1.1 The analysis supporting Ofcom's decision includes:
 - the decision is in line with the views of the majority of consumer and industry stakeholders as set out in the table summarising stakeholder responses (Annex 2);

- the research and responses from consumer stakeholders indicate a continuing level of End-User dissatisfaction with the quality of services provided by some suppliers, a considerable variation in quality and a lack of effective alternative sources of information about QoS;
- a Regulatory Impact Assessment (RIA) indicated that there were net benefits to the provision of comparable QoS indicators – particularly for certain groups of End-Users; and,
- economic analysis suggests that the market could be weakened by the availability of imperfect information and this may result in a general decline in service quality. End-Users may also become confused by the variety of quality claims and may become less likely to switch providers when faced with substantial search costs for this information.

Section 2

Introduction

Outline of this document

- 2.1 This statement (Statement) sets out Ofcom's conclusions on the provision of QoS Information to End-Users. This follows the Consultation Document outlined in paragraphs 2.27 and 2.28 below. The Statement also includes at Section 6 and Annex 1 a Notification and proposed Direction under GC 21 for certain Fixed Line Service Providers to publish QoS parameters (QoS Parameters).
- 2.2 Section 3 sets out Ofcom's policy decisions for Fixed Line and Mobile Service Providers. In particular, this section highlights the results of consumer research.
- 2.3 Section 4 presents further evidence that Ofcom considered in reaching its policy decisions.
- 2.4 Section 5 provides a synopsis of issues raised by the Consultation Document.
- 2.5 Section 6 is the consultation on the QoS Parameter requirements that Ofcom intends to set. Ofcom sets out its preferred measurements option.
- 2.6 Annex 1 sets out a Notification that Ofcom is proposing to make a draft Direction under section 49 of the Communications Act 2003 (the "Act"), and under GC 21, and the draft Direction.

Regulatory framework

- 2.7 A new regulatory framework for electronic communications networks and services entered into force in July 2003. The framework is designed to create harmonised regulation across Europe and is aimed at reducing entry barriers and fostering prospects for effective competition to the benefit of consumers. The Directive which is pertinent to reporting QoS Information is Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services, (the Universal Service Directive or USD).
- 2.8 Article 22 of the USD allows the national regulatory authority (Ofcom) where appropriate to ensure that certain undertakings that provide publicly available electronic communications services (PECS) publish comparable, adequate, and up to date information for End-Users on the quality of their services.
- 2.9 When the new European Union (EU) communications regime was implemented, individual licences granted under the Telecommunications Act 1984 were replaced by GCs which apply to all persons providing electronic communications networks and services.
- 2.10 The Act sets out the general functions, powers, and duties of Ofcom. For most PECS providers, the only relevant conditions are the GCs as these apply, in part, to anyone who is providing an electronic communications service or network.
- 2.11 Article 22 has been implemented through the requirements set out in GC 21 (for further information, see Section 6). GC 21 concerns the publication of QoS Information to End-Users, a copy of which is attached at Annex 3.

Ofcom's Duties and Functions

- 2.12 Ofcom, in setting out its proposal on the provision of QoS Information to End-Users, has sought to fulfil its principal duty set out in section 3(1) of the Act. Section 3 (1) of the Act states that in carrying out its functions, Ofcom shall further the interests of citizens in relation to communications matters, and the interests of consumers in relevant markets, where appropriate by promoting competition.
- 2.13 In this regard, Ofcom has considered amongst other things the requirements in section 3 (2) of the Act to secure the availability throughout the UK of a wide range of electronic communications services, and section 3 (4) of the Act , namely, the:
- desirability of promoting competition in relevant markets;
 - desirability of promoting and facilitating the development and use of effective forms of self-regulation;
 - desirability of encouraging investment and innovation in relevant markets;
 - needs of persons with disabilities, of the elderly and of those on low incomes;
 - opinions of consumers in relevant markets and of members of the public generally; and,
 - different interests of persons in the different parts of the UK, of the different ethnic communities within the UK and of persons living in rural and in urban areas.
- 2.14 In order to secure the availability throughout the UK of a wide range of electronic communication services, Ofcom has also sought to, as set out in section 3 (5) of the Act, further the interests of consumers by having regard, in particular, to the interests of those End-Users in respect of choice, price, QoS and value for money.
- 2.15 Section 4 of the Act sets out Ofcom's duties for the purposes of fulfilling its Community obligations. In section 4 of the Act, Ofcom has considered amongst other things the requirement to promote competition and the interests of all persons who are citizens of the EU; and the requirement to encourage such compliance with the standards mentioned in section 4 (10) of the Act as is necessary for, amongst another, securing freedom of choice for the customers of Communications Providers. Section 4 (10) includes the standards of the European Telecommunication Standards Institute (ETSI).
- 2.16 Additionally, Ofcom exists to further the interests of citizen-consumers through a regulatory regime which, where appropriate, encourages competition. To carry out this mission, Ofcom shall amongst other things:
- balance the promotion of choice and competition with the duty to foster plurality, informed citizenship, the protection of viewers, listeners and customers, and promote cultural diversity; and
 - serve the interests of citizen-consumers as the communications industry enters the digital age.
- 2.17 A part of Ofcom's mission is to encourage the provision of timely, relevant, accessible and accurate information to citizen-consumers and enable them to make informed purchasing decisions.

- 2.18 Reliable consumer information facilitates the exercise of choice by End-Users and helps them to receive the benefits of increased competition. Ofcom believes that if End-Users are to rely upon such information it needs to be accurate, accessible, and truly comparable.

QoS background

- 2.19 A number of years ago, in pursuit of the objective of the well informed consumer, the Fixed Line and Mobile Service Providers were persuaded to produce comparable information that consumers could use to help inform their decision making. Two voluntary¹ schemes emerged with the task of providing this information – the Comparable Performance Indicators (CPIs).
- 2.20 The CPI schemes (CPI Schemes) - which are run by the industry, consumer advocacy groups, and the regulator - have had mixed success. On the one hand, the CPI Information was quite thorough and it was comparable. On the other, the testing methodology tended to be complex, and the information overly-technical (for fixed line) and often incomplete. Neither scheme was properly advertised or marketed. As such, consumers' awareness and use of this information remained low.
- 2.21 Both co-regulatory schemes (Co-Regulatory Schemes) had opportunities to change and to improve efficiency and progress their end products. Such changes were regularly encouraged by Oftel and subsequently Ofcom. Unfortunately, in the past, those involved in the scheme tended to be focussed on its technical aspects and it proved difficult to obtain changes that could have been beneficial to consumers.
- 2.22 Due to the imperfect QoS Information currently on offer and the limited awareness of this information, Ofcom believes that the current CPI Schemes are not meeting effectively End-User requirements. Yet with the proliferation of resellers through carrier pre-selection products and wholesale line rental products, the availability of reliable QoS Information for telecommunication services is particularly timely.
- 2.23 Many responses to the consultation reflect the belief that the present schemes do not keep up adequately with market and product developments. Some respondents also feel that the focus on the consumer (i.e. End User) has not always been paramount. A change in focus is reflected in UniTech's comment:
- "...this is an initiative intended to benefit the consumer, not the operator – but with a wider participation and a meaningful product, both consumers and operators would benefit. If awareness of QoS results were to become more prominent, operators would strive to achieve the best results, and the consumers would win from this."*
- 2.24 In Ofcom's view, the current state of the fixed line CPI Scheme is untenable. Membership has in the last year declined, many firms do not participate. This has also resulted in a corresponding decrease in available funds as a result of which the group has no plans for improving its information product without further outside direction.
- 2.25 The mobile CPI Scheme differs in that it is more comprehensive and continues to work towards establishing an improved information product. The group meets on a frequent basis and the input - in terms of human and financial - is shared amongst the group.
- 2.26 The difficulties being faced by the fixed scheme led to a decision to consult on the future of QoS reporting.

¹ Voluntary, but with Oftel indicating that it might intervene if the schemes were not effective.

Consultation process

- 2.27 The Consultation Document on the reporting of QoS Information was published in November 2003. The consultation closed in February 2004; Ofcom received 30 responses.
- 2.28 The Consultation Document included a regulatory impact assessment. It focussed on two main issues. In general, it asked “why do End-Users need QoS Information?”. It then asked “what role should Ofcom play in delivering this information?”. Four policy options were set out in the document; there was no recommended option. The options were as follows:
1. **No regulatory requirement.** Ofcom would not promote policies relating to the availability of QoS Information for End-Users, including the CPI Schemes.
 2. **Maintain current Comparable Performance Indicators (CPI) schemes.** The schemes would continue with their current voluntary memberships and current Co-regulatory Groups.
 3. **Maintain co-regulatory framework, but put in place minimal regulatory requirements.** This option would continue to use a co-regulatory approach, but enforces operator participation.
 4. **Direct regulation.** Ofcom would set the reporting criteria and methods of provision. There is no industry involvement other than to collect the required information.
- 2.29 Comments on the consultation are provided in section 5 and are summarised in Annex 2.
- 2.30 In general, Ofcom has chosen option 2 for the Mobile Service Providers and option 3 for the Fixed Line Service Providers (with exceptions). Ofcom’s reasons for this selection are provided below in sections 3 and 4. Further details concerning which operators are affected by this decision, the proposed Parameters, and the publication requirements are presented in the proceeding sections.

Notification

- 2.31 In order to implement its policy option for requiring certain QoS Parameters for Fixed Line Service Providers, Ofcom is giving a Notification of a draft Direction under section 49 of the Communications Act, and under General Condition 21.1.
- 2.32 The Notification and the draft Direction is found at Annex 1. The period of public consultation for this draft Direction will run until 4 October 2004. Details of how to respond to this draft Direction can be found in Annexes 5 and 6.
- 2.33 Once Ofcom has considered any representations made within the consultation period, Ofcom may give effect to the proposals, with or without modifications, by publishing a final Explanatory Statement and a Direction. This will be published in the autumn of 2004.

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2.34 Separately, Ofcom intends to help with the operation of two Co-regulatory Groups that will provide information from the fixed-line and mobile sectors. Ofcom will ensure that the information is comparable, sufficient, and appropriate to End-Users.

Section 3

Policy conclusions and rationale

Policy Decision

3.1 Ofcom believes that:

- the provision of comparable QoS Information is beneficial to End-Users and Ofcom will work to ensure that it is supplied;
- in order to fulfil this objective, it is proposed that Fixed Line Service Providers of a certain size² shall provide comparable, adequate, and up to date information to End-Users (in line with option 3 of the consultation). It is proposed that this information be in the form set out in the draft Direction at Annex 1;
- the Mobile Service Providers shall be encouraged to provide comparable QoS Information on a voluntary basis (in line with option 2 of the November 2003 consultation). Ofcom will monitor the delivery of information to End-Users; and,
- stakeholders will be asked to establish and maintain Co-regulatory Groups to ensure the adequate provision of information.

Rationale

3.2 The rationale for Ofcom's recommendations can be summarised as follows:

- Ofcom's recommendations are in keeping with the views of the majority of responses received from the consultation and reflect a general opinion - including that of Communication Providers - that for the fixed sector there is a need to require participation of providers and that the scheme itself should be run on a co-regulatory basis³.
- The analysis set out in the Consultation Document, the responses to that document, the research results, and also the recent National Audit Office (NAO) and Public Accounts Committee (PAC) reports, all show that there is an End-User interest in QoS Information and a likely detriment for particular sets of consumers should this information not exist. There are also potential competitive benefits associated with a successful delivery of this information.
- The majority of existing (and past) participants point to the major investment in time, money and resources that has gone towards designing and improving the CPI Schemes. Many Fixed Line Service Providers have designed and modified their internal quality measuring systems according to the requirements of the existing schemes. As such, most respondents do not wish to lose this work and would prefer to build upon the successes of the existing schemes.
- Providing QoS Information should remain optional for those providers who are below a set threshold; this is currently set at £4 million in net revenue per quarter and 100 million call minutes handled to End-Users per quarter for Fixed Line Service Providers. The proposed threshold is in place for reasons of proportionality.

² See "thresholds" on pages 11, 29, 33

³ A summary table of stakeholder preferences is found at annex 2

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- The fixed-line sector has failed to deliver an effective and truly comparable information product. The mobile sector, on the whole, involves the major Mobile Service Providers and has shown a greater willingness to deliver a product and the major players remain actively engaged in the process. For this reason it would seem appropriate for the mobile scheme to remain voluntary.
- Requirements and reporting activity throughout the EU are largely in harmony with Ofcom's proposed approach.

Policy for Fixed Line Service Providers

- 3.3 Ofcom proposes the introduction of a mandatory reporting scheme for Fixed Line Service Providers who do meet the threshold set out above.
- 3.4 Using the CPI programme as a basis for the future, Ofcom will encourage a reduction in the information that is measured by the fixed group, a simplification of the audit process, and an improvement in the quality of publication. This should ensure a more cost-effective programme that better meets the needs of End-Users. Ofcom proposes to base the QoS Parameters on those found in ETSI standard 201 769. Ofcom's preference is outlined in the consultation in section 6 below.
- 3.5 The Co-regulatory Group to be established will be tasked with deciding upon an effective audit process and creating a suitable publication. Ofcom will provide input and direction as a member of this group, but will not assume responsibility for its daily functioning eg. Ofcom will not chair the group or provide a secretariat function.

Stakeholder views' for fixed line

- 3.6 The view of most stakeholders is that End-Users want and need QoS Information and that this information would be used if provided in an accessible form. The majority of stakeholders supported Option 3 - maintain a co-regulatory framework, but put in place minimal regulatory requirements.

- 3.7 BABT's view was typical of the majority of respondents when it stated:

"The consumer, we believe, has every right to see a meaningful performance comparison between Communications Providers. This is particularly helpful when he is considering switching his custom, and is a useful aid to effective competition."

- 3.8 At present, a range of companies serving residential and SME customers do not participate in the existing CPI Scheme. This means that there is an absence of fully comparable QoS Information. The majority view was based on concerns about the problems associated with the current fixed CPI Scheme; in particular, the lack of participation exacerbated by the withdrawal of a number of providers. Respondents considered that without a formal regulatory "backstop" requirement for participation, the fixed-line industry would not provide End-Users with adequate and comparable QoS Information voluntarily.

- 3.9 NTL stated:

"If such a scheme is to exist then it must operate a level playing field to ensure the information provided to the public is a representation of the industry as a whole..."

- 3.10 Respondents were concerned that if options 1 or 2 were to be followed, no meaningful comparable information would be made available to End-Users in the foreseeable future. This observation is repeated by many respondents to the consultation. A typical view is that stated by MCI:

“The retention of a co-regulatory framework and building upon the existing CPI process offers the most effective and efficient way of meeting consumer needs. The early involvement of industry, inherent in a co-regulatory scheme, offers a more dynamic, responsive reporting process than would be the case under direct regulation, which relies heavily upon the regulator for direction and impetus.”

QoS and fixed line telephony research

- 3.11 For many End-Users, reliability is the most important aspect of a telecoms service with four in ten residential British Telecommunications plc (BT) fixed-line consumers citing reliability as the most important aspect of their service; 25 per cent cite value for money. BT customers are more concerned with quality than cable customers and less concerned about price⁴.
- 3.12 Research suggests that circa 1 million fixed telecoms users are not satisfied with the overall value for money of their telecommunications service; 1 in 5 BT residential customers are dissatisfied with this aspect. Significantly greater proportions of non-BT consumers - including Indirect Access (IA) providers (ie resellers) - are not satisfied with various aspects of their service - including value for money, reliability, and value for money.⁵
- 3.13 Despite the obvious importance of QoS to End-Users, in the past more than 40% of residential fixed phone customers were not satisfied with the information available for comparing and choosing between fixed phone suppliers⁶. Given the dwindling information being made available from the fixed line CPI Scheme and that no new and readily-available QoS Information has become available to End-Users, there is nothing to indicate that this figure has improved over the last two years.
- 3.14 Further research on customer numbers shows an increase in SMEs' use of competing service providers, particularly for medium-sized business (i.e. 51 - 250 employees)⁷. Therefore it appears that more business End-Users are searching the marketplace for alternative Fixed Line Service Providers.

Policy for mobile service providers

- 3.15 Ofcom will continue to encourage the Mobile Service Providers to provide comparable QoS Information and will continue to participate in a Co-regulatory Group in order to help ensure information is appropriate and sufficient for End-Users. Membership of the scheme remains voluntary.
- 3.16 The mobile Co-regulatory Group will remain responsible for deciding the testing, auditing, and publication methods. The group will decide the most relevant indicators

⁴ Ofcom research Q14, October 2003

⁵ Ofcom research Q10, October 2002

⁶ Ofcom research Q6, November 2001

⁷ Ofcom research Q13, July 2003

for that sector and may take account of ETSI guide TS 102 250⁸. Ofcom will provide input and direction as a member of this group.

- 3.17 Ofcom reserves the right to take further regulatory action - within its powers - should this group, in Ofcom's opinion, not provide End-Users with comparable, adequate, and up to date information.

Stakeholder views' for mobile

- 3.18 The majority of stakeholders did not make a distinction between information provided by the mobile or fixed line sector. Most felt that QoS Information should be available from both sectors. However, some stakeholders did comment on the possible operational difficulties of trying to provide a single source of information covering all (tele)communications services. A blanket approach was not generally favoured. Vodafone stated:

"Granting authority to a single group or body carries with it a great weight of responsibility for ensuring that information is not only accurate, but also representative and relevant."

- 3.19 Responding to the consultation, Mobile Service Providers favoured a co-regulatory approach and did not support further regulatory intervention. A typical view is that stated by Orange:

"Orange believes that, as all the UK Mobile Network Operators have participated in this co-regulatory initiative to date, there is no need for Ofcom to impose any more formal regulatory controls. Orange believes that if it can be objectively demonstrated that consumers continue to require QoS Information, the co-regulatory model is the most appropriate for this kind of activity."

QoS and mobile telephony research

- 3.20 Residential consumer research suggests that dissatisfaction with geographic coverage stands at about 15 percent⁹. With the roll-out of (third generation) 3G networks, geographic coverage may continue to be an important information set. Business dissatisfaction levels with geographic coverage are slightly higher¹⁰. Of note is the increased importance that businesses place on this aspect of QoS as there may be immediate corresponding financial losses and operational inefficiencies.

- 3.21 Research indicates how likely consumers are to use information comparing Mobile Service Providers. 44% express an interest in using any information and 9% state that they are likely to use all (listed) aspects of information to compare. Around 30% said they are likely to use the top five aspects of information, including: sound quality, the ability to send and receive text messages successfully, ability to make calls without getting cut off, the quality of customer service/after sales care, and geographic coverage¹¹.

- 3.22 Consumers indicate the information areas they would find useful to have more information about; 47% indicate geographic coverage and 41% the ability to make calls without getting cut off. A further 31% indicate a (mobile) network's ability to send

⁸ Speech Processing, Transmission and Quality Aspects (STQ); QoS aspects for popular services in GSM and 3G networks;

Part 2: Definition of Quality of Service parameters and their computation.

⁹ Oftel research Q13, July 2003

¹⁰ Oftel research Q11, January 2003

¹¹ Oftel research, Q10 October 2002 and Q11 January 2003

and receive text messages successfully and 30% thought information on sound quality would be useful¹².

- 3.23 In terms of aspects of mobile service that are rated as important to consumers, the ability to make calls without being cut off (at 96%) and geographic coverage (at 91%) rank alongside overall cost of service (at 94%). These levels give a very clear message as to the importance placed on certain quality aspects of mobile phone service. Businesses rank the ability to make calls without being cut off at 98%, geographic coverage at 88%, and overall cost of service at 93% as most important¹³.
- 3.24 Notwithstanding some increases in satisfaction with mobile services in terms of overall satisfaction, geographic coverage, and the ability to complete a call successfully, the overall number of consumers who are not content with QoS remains significant. Research indicates that circa 2 million mobile users are dissatisfied with their overall service and approximately twice that number is dissatisfied with the geographic coverage and the ability to make a call and not get cut off¹⁴.
- 3.25 Ofcom believes that there is sufficient evidence to propose that comparable QoS Information should be made available. Ofcom's research - and the majority of stakeholder opinion - proves that there is a substantial End-User need for this information. It also provides a better picture as to the quality aspects that are of particular importance.

General research

- 3.26 Research clearly indicates the importance that End-Users' attach to QoS. End-Users rank QoS as either the first or second most important factor in choosing a service provider, depending on which consumer group is surveyed. The consultation document noted Oftel's estimate that some 50% of UK residential fixed-line service users would be interested in using comparable performance information on quality issues. Of those, between 5% and 29% would actually likely use this type of information and would be open to the idea of switching. As mentioned earlier, nearly half of mobile End-Users expressed an interest in using information to compare aspects of Mobile Service Providers' quality.
- 3.27 In percentage terms, these numbers reflect a minority of users. However, they equate to millions of UK End-Users who indicate they are interested in and would use comparable QoS Information. At present, there is a 91% take-up of fixed-line phones and 75% take-up of mobiles by adult consumers in the UK¹⁵.
- 3.28 Of note is the increasing number of End-Users who were accessing the data on both CPI websites. This shows that more use was being made of this information despite the reduction in the amount of information being provided by industry, and the low level of advertising and awareness of the schemes (for instance, most CPI participants did not even refer to the schemes on their own websites).

Switching research

- 3.29 A key purpose of providing comparable QoS Information is to help End-Users to make informed purchasing decisions. Better information can help End-Users optimise their

¹² Oftel research Q10, October 2002

¹³ Oftel research Q11, January 2003

¹⁴ Oftel research Q13, July 2003

¹⁵ Oftel research Q13, July 2003

choice of service provider and may encourage switching. Switching, in turn, promotes competition. Even a small percentage of active consumers - switchers - may have a significant effect on the competitiveness of the market. Age Concern England's view was typical of stakeholder responses, it stated:

"Clearly, to be able to make an informed choice, the information must include, as far as is possible, all the companies involved in providing domestic telephone services. Given the impending introduction of Wholesale Line Rental services, which we think could attract more domestic consumers to switch to new providers, we think access to this information will become more important in the future."

3.30 Consumers are more likely to switch their Mobile Service Provider than their Fixed Line Service Provider. About 30% of consumers have claimed to have switched provider for both mobile and fixed line (not including the use of Indirect Access (IA) operators). Almost half of BT customers said they would consider using telecoms services provided by other trustworthy brand names but only a quarter would consider using an alternative offering a service of equal quality to BT. About 1 in 5 mentioned barriers to switching as their reason for remaining with BT¹⁶.

3.31 UniTech's view reflects the findings of this research:

"Consumers are wary of signing up for what looks like a much cheaper option as they are convinced the QoS will be very low... In our experience consumers wish to compare the USP's with other less well known operators."

Co-regulation

3.32 Ofcom advocates the use of co-regulation. Such mechanisms can be a useful vehicle for ensuring the provision of this information to End-Users. Ofcom will support these Co-regulatory Groups by providing guidance, research, and facilitation services. Ofcom believes that there should be separate groups for mobile and fixed-line services. Any joint processes/publication methods would be an issue for the agreement of the groups; there may well be advantages in sharing experience and ideas.

3.33 Prospective members of these Co-regulatory Groups should contact Ofcom using the details provided in Annex 4. It is expected that industry and consumer advocacy groups will regularly attend group meetings, thus forming the groups' memberships. Other tasks will need to be dealt with by the groups themselves when appropriate (e.g. contracts, functionality).

3.34 A co-regulatory approach was approved by many respondents to the consultation, including the UK Competitive Telecommunications Association (UCKTA), which stated:

"UKCTA believes that Communications Providers should be allowed the freedom to be innovative with regard to what they provide to the consumer. Whilst at the same time meeting their obligations as set out in the Communications Act 2003 and presented in the Conditions of Entitlement – which may include a more cost effective Comparable Performance Indicator (CPI) process or cross industry scheme."

¹⁶ Oftel research Q14, October 2003

- 3.35 Ofcom will evaluate the effectiveness of these groups and the quality of the information products they deliver. Ofcom intends to use its own research function to help evaluate the ongoing effectiveness of the information schemes.
- 3.36 It is proposed that this ongoing evaluation will assist Ofcom in conducting periodic reviews of the Co-regulatory Groups. These general reviews should ensure that these groups are meeting their own objectives and that the information products meet Ofcom requirements. Ofcom's requirements will be based on the timely delivery of complete, accurate, comparable, and accessible information.

Section 4

Supporting Evidence

4.1 Ofcom embraces an evidence-based approach to regulation. Following the November 2003 consultation, Ofcom believes that the pertinent questions to ask in order to analyse this issue are:

1. Is there an End-User requirement for information?
2. Is regulatory intervention necessary to ensure provision of information?
3. What constitutes “minimum regulatory intervention”?
4. Why is this information not being provided by other sources?

Question 1: Is there an End-User requirement for information?

Section 3 provides evidence in the form of research and stakeholder views that there is an End-User requirement for QoS Information from the fixed-line and mobile sectors. Ofcom also reviewed the likely disadvantages to End-Users if this information was not available.

Disadvantages if no QoS Information were to be available

4.3.1 The consultation examined the disadvantages associated with a lack of QoS Information. No comparable QoS Information could result in:

- the existence of imperfect information leading to a welfare loss for End-Users as less than optimal purchasing decisions may be made;
- an incentive for lower quality Communication Providers to mimic quality signals published by others – causing confusion and misleading End-Users;
- a retail market where all Communication Providers are free of the discipline inherent in providing comparable information; a general industry incentive to lower quality may follow; and,
- End-Users having high information search costs, no information, or being left to infer information about quality from pricing policies, advertising campaigns, brand names, or other skewed and often biased sources.

4.3.2 The RNIB’s view was representative of consumer stakeholders, they stated:

“We wish to stress the vital importance of versatile and reliable telecommunications to people who can often be socially isolated.”

4.3.3 The disadvantages associated with the lack of provision of this type of information were also acknowledged by Communication Providers themselves. Some of the likely disadvantages would include:

- the ability to judge one service offering (in terms of quality) against another would be severely restricted, making it difficult to signal a superior service to End-Users – and to potential customers

- new Communication Providers would not be able to easily and accurately signal their performance levels in comparison with others;
- genuine service improvements for existing providers may be lost or be diminished by the lack of impetus to provide fresh and comparable data (as previous quality offerings may have dictated customer perception); and,
- the many years of work that was put into providing CPIs would be lost.

4.3.4 All the above evidence supports the view that the provision of comparable QoS Information is advantageous for End-Users, and the competitiveness of the market. This is repeated by a range of respondents to the consultation, including Energis:

“Energis believes that the generation of consumer information is vital to competition within the marketplace. The ability to compare Quality of Service information would be non-existent without a regulatory requirement, thereby affecting consumer choice and the ability of operators to benchmark across the industry. The USP requirements in existence do not address the same area of consumer interest and neither encourages competitive improvement within the marketplace nor satisfies consumers’ information needs.”

4.3.5 Without comparable information, End-Users have no accurate way of determining if a Communication Provider is better or worse than their current supplier. Trial and error cannot be a recommended way of determining a Fixed Line or Mobile Service Provider’s QoS; an End-User may have to try different Communication Providers before they find one most suited to their needs.

Question 2: Is regulatory intervention necessary to ensure provision of information?

4.3.6 A test to determine the need for regulatory intervention is whether this type of information already exists elsewhere; it does not exist. Another test is whether this information will become available in future. There is no sign that it will be made available for fixed-line services.

Alternate sources of information

4.3.1 There are currently no independent, consistent, free, comparable, and sufficiently comprehensive sources of QoS Information available for telecommunication End-Users (the Telecommunications Industry Forum (TIF) also noted the lack of alternative QoS Information). Therefore without Ofcom intervention, it is extremely unlikely that adequate QoS Information will be available to End-Users.

Reports from the PAC and NAO

4.3.1 The PAC Report concluded that Ofcom should establish an effective strategic approach to ensure that the information needs of telecommunications consumers are addressed. Their view was that:

“The market is confusing for consumers. Competition in the telecommunications market is well established, bringing a wide range of choices for consumers, including which company will provide their phone line and which tariff they should choose. Whether consumers can make informed choices depends on whether they can make meaningful comparisons between companies.”

4.3.2 The NAO noted:

“Consumers need to be well informed to benefit fully from competition. In any market, there is a risk that suppliers’ actions alone cannot be relied upon to generate sufficient market awareness to meet the needs of consumers. This risk is significant in the telecommunications market where many consumers are not fully aware of alternative ways of buying telecommunications services.”

4.3.3 Ofcom believes the provision of QoS Information should be a valuable tool in helping to counter any confusion that may exist amongst citizen-consumers. End-Users making informed choices are essential for an effectively competitive market and for all customers to get the best possible deal.

Regulator’s role

4.3.1 By ensuring the provision of QoS Information, Ofcom believes that it is furthering the interests of citizen-consumers.

4.3.2 Many stakeholders commented on what they perceived as the regulator’s role in ensuring a delivering of useful information to End-Users. The view of the Communications Workers Union reflected this:

“We would like to emphasise our wish that Ofcom recognises its responsibility to society as a whole when providing QoS Information. We would hope that when drawing up service measurements, Ofcom will take into account the information needs of citizens and consumers from a broad range of societal groups, taking care not to ignore the needs of minority groups, those with disabilities and those living in rural areas.”

Question 3: What constitutes “minimum regulatory intervention”?

4.3.3 It is Ofcom’s view that the CPI schemes are early examples of lighter touch regulation. They represent pioneering projects that embraced co-regulation and illustrated a co-operative regulatory approach.

Minimum intervention for fixed-line

4.3.1 At present, there is an absence of fully comparable fixed-line QoS indicators. This is evidenced by:

- no new Communication Providers have joined the fixed CPI Scheme in the last four years despite repeated attempts by both the regulator and TIF to increase membership;
- a number of major Communication Providers have left the scheme (e.g. Telewest, Cable and Wireless, Kingston Communications);
- many CPI participants do not participate fully and do not provide a full set of comparable results;
- TIF have been unable to remedy a number of ongoing problems with comparability, cost, and group organisation/functionality; and,

TIF have no plans for improving the current information delivery.

- 4.3.2 Given these problems with membership and the delivery of complete information, Ofcom is of the view that policy option 3 is the least intrusive option for ensuring the delivery of QoS Information from the fixed line industry.

Minimum intervention for mobile

- 4.3.1 In the mobile sector, the Co-regulatory Group has operated voluntarily since 1998. Indeed, there were no legal powers available to require this type of information from MNOs before July 2003. Ofcom believes that this Co-regulatory Group (CPI) can offer meaningful comparable information and is encouraged that the group is currently exploring alternate ways of delivering a meaningful information product. The use of a single and independent testing facility may provide a useful and cost-effective solution. Orange stated in their response:

“Network coverage (which also incorporates network performance) is a critical factor in maintaining customer satisfaction and retaining customers. Orange believes that there is significant competitive pressure on operators to maintain and indeed continue to improve network coverage. This view is supported by recent consumer churn research in which (among Pay Monthly customers only) 10% of customers surveyed cited network coverage as the key reason why they switched MNO and 19% of the consumers surveyed stated that this contributed to their decision.”

- 4.3.2 Mobile Service Providers collect related QoS Information for their own monitoring purposes. Indeed, the call success rate surveys formed a subset of the overall testing programmes and likely cost savings were made as a result. Therefore certain efficiencies may be available regarding a unified (independent) QoS testing programme.
- 4.3.3 Ofcom is committed to keeping a watching brief on the output of the mobile Co-regulatory Group. If comparable information is not easily accessible, timely, consumer-friendly, and if it does not capture the vast majority of the service provision, Ofcom will need to re-evaluate its regulatory options.

Industry cost of delivery

- 4.3.1 Cost is understandably a major issue for industry when providing information that is comparable, complete and trustworthy. Ofcom believes that the current fixed-line CPI product may have attempted to deliver too much detail to End-Users.
- 4.3.2 The diminishing membership in the fixed line group also means that the remaining operators have had to increase their individual financial commitments.
- 4.3.3 Ofcom's cost approximations in the consultation were based on operator approximations. BABT - as an auditing body - agreed with Ofcom's cost approximations in the consultation:

“In reality, the actual cost of participation in the CPI Scheme is very low even taking into account the costs of customer satisfaction surveys. BABT has in the past calculated the figures equivalent to Fig 3.1 on page 15 of the consultation, and found the cost is a few pence per customer per annum. There is therefore no real argument on cost grounds that CPI measures are an unrealistic burden, particularly the hard measures.”

4.3.4 The issue of costs was also raised by BSI Product Services who stated:

“Costs for those constantly at the bottom of the Table may outweigh the benefits to them. The benefits to a future scheme rely on scaleable results and relate to all participants including the consumer. Those trying to be, or remain, at the top of the Table would benefit regardless of the cost.”

4.3.5 Ofcom believes that the proposed QoS Parameters (in section 6) can be produced in a cost effective manner without imposing a substantial additional regulatory burden. For instance, it is proposed that the scheme’s operating costs will be shared across a wider membership than the CPI membership, and that comparative cost savings may be found regarding the research and audit functions as well as the ongoing operational requirements of the scheme.

Question 4: Why is this information not being provided by other sources?

4.3.6 Respondents agreed with the consultation’s view that there is an absence of incentives to provide comparable information. A poor performing service provider may well not want to be compared to other providers. There is also a danger of service providers trying to mimic the service level information provided by others and an opportunity for some to mislead and/or confuse End-Users.

Other sources of information

4.3.1 There are other sporadic sources of information – some with a degree of comparability. For example there are JD Power and Associates surveys and Which? magazine information. However, key goals for Ofcom such as consistency, availability, and adequate detail are not sufficiently met. End-Users need free and fresh information that has the right level of detail in order to make well-informed purchasing decisions.

4.3.2 The fact that there is no ongoing independent quality comparison service (i.e. a QoS version of Ofcom’s Price Assurance Standard “PASS”) suggests that there may not be a market for this information. This may be attributable to the difficulty in extracting information that can be deemed “comparable” and the significant start up cost involved in producing this information. Kingston Communications stated:

“Not having any sort of regulation in regard to the supply of quality of service information in place is extremely unlikely to create the impetus for either the Industry to create its own scheme or any individual Communications Company voluntarily publishing information that would ultimately benefit small and domestic customers.”

4.3.3 Ofcom will ensure that End-Users have access to QoS Information for both Fixed Line and Mobile Service Providers on its own website when it becomes available. When practicable, Ofcom will improve End-Users’ awareness of the schemes, however Ofcom believes that it should not be solely responsible for raising the awareness of these schemes. Ofcom believes that a greater effort (in comparison with past CPI Schemes) should come from both industry and consumer groups if general awareness is to increase – and End-Users are to benefit from this information.

4.3.4 Ofcom believes that the Co-regulatory Groups can assist with the dissemination of this information. Therefore Ofcom will not be solely responsible for its publication. As such the Co-regulatory Groups will be responsible for creating, maintaining and continuously improving the publication of this information. Primarily, this information

will be web-based, however, there should be adequate provision of this information to those with a disability and this should include the availability of hard copies. Any website providing this QoS Information shall be independent; meaning that it will not be hosted by Ofcom or by any individual Communications Provider.

- 4.3.5 Ofcom believes that the results of this analysis reinforce the case for the policy decisions made in section 3 and for the proposals made in the consultation in section 6.

Section 5

Responses to the original consultation

Responses to other questions/comments raised during the consultation dated 13 November 2003 not covered previously in this Statement

Information for End-Users with disabilities

- 5.1 The Consultation Document did not ask about the provision of comparable information in relation to those services available to End-Users with a disability. However, Ofcom received responses encouraging the provision of this type of information.
- 5.2 As previously mentioned, the type of information that Ofcom proposes should be provided will be based on ETSI guide 201 769 parameters, as well as a complaint handling, and disconnections parameters. As such, the available QoS Information will cover general telephony products and reflect all users' experiences – including service provision, fault and fault repair monitoring, complaint handling, and billing accuracy.
- 5.3 Providing additional information such as speed of priority fault repair, or timeliness of alternative format bill or contractual material, was not discussed in the consultation. Any such requirement would likely need to pass tests of proportionality and consumer detriment, would require further research, and may require its own public consultation.
- 5.4 Ofcom will be publishing a Universal Service Review shortly. This will look at ways of making the relay service more transparent (eg publishing key performance indicators or annual reports).
- 5.5 The proposed Co-regulatory Groups will need to decide if they wish to incorporate specific information about services for those with a disability. Advocacy groups working with disabled people are invited to attend the Co-regulatory Groups that are created and/or provide them with relevant research. However, at this time Ofcom does not propose to mandate the provision of QoS Information specifically for disabled services.
- 5.6 Ofcom will encourage the use of accessible formats of information to help meet the needs of End-Users with disabilities. This may entail the availability of braille and large print (upon request) and accessible website formats. The publications should also endeavour to use Plain English.

Audit and review

- 5.7 The Consultation Document did not provide options nor state a preference for how information shall be audited and reviewed. Ofcom is in favour of using a cost-effective solution and believes that there is room to improve the current CPI audit procedures.
- 5.8 Ofcom believes that the Co-regulatory Groups must decide upon a satisfactory auditing system and that Ofcom will need to be satisfied that sufficient accuracy checks are in place. Generally, Ofcom suggests that a more thorough audit be adopted by the mobile group and that the fixed-line group simplifies its audit process. Difficulties have been encountered with the publication of the mobile results (including frequent complaints being brought to Oftel/Ofcom, and the Advertising Standards Authority) and these need to be rectified.

- 5.9 Some consultation respondents noted that there may be unexplored synergies between QoS reporting and the metering and billing scheme. Any such advantages should be pursued by the Co-regulatory Groups themselves.

Ofcom's Role

- 5.10 Some respondents indicated that they wished to see an increased role for Ofcom within the co-regulatory process. Suggestions included: hosting meetings, chairing the groups, broadening the Ofcom PASS scheme, and supplying the information solely via Ofcom's website.
- 5.11 As a participating member, Ofcom commits to hosting its share of meetings at the request of the Co-regulatory Groups. Ofcom does not consider that it would be appropriate to act as the sole chair for either Co-regulatory Group. Ofcom's role will be to work with the groups to ensure that they are meeting the regulatory goals and requirements.
- 5.12 As mentioned, currently there are no QoS website services offered in the UK that provide adequate, comparable and up to date information. Therefore broadening the Ofcom PASS scheme (which currently deals with tariff comparisons) would not seem to be feasible at this time as there are currently no websites to accredit.
- 5.13 Ofcom believes that the responsibility for delivering information and ensuring strong End-User awareness lies with the Co-regulatory Groups. Both groups will decide how best to disseminate such information and there may be opportunities to share this function.

Respondents' option preferences

- 5.14 Following the November 2003 publication, Ofcom received consultation responses from 30 organisations or individuals. These included Fixed Line and Mobile Service Providers, consumer and advocacy groups, private industry and consulting firms, and a local councillor. On the whole, respondents indicated a preference for one particular option (option 3). Some indicated that more than one option would be acceptable, one offered alternative options, and a few others did not provide a preference.

The majority view is reflected in Thus's response:

"The current scheme lacks relevance due to the very restricted membership and the failure to differentiate between different market sectors. Compulsory membership would as already described increase the relevance and share the cost burden more widely."

- 5.15 The mobile sector tended to not favour an increased regulatory role and therefore did not support option 3 or option 4. There was support for co-regulation, and there is continued general support for option 2.

Section 6

Consultation – Setting QoS Parameters

The purpose of this consultation

- 6.1 Ofcom exists to further the interests of citizen-consumers. In so doing, an Ofcom objective is to encourage the provision of timely, relevant, accessible and accurate information to enable End-Users to make informed purchasing decisions. As such, Ofcom is proposing to require the provision of QoS Information by certain Fixed Line Service Providers. Ofcom also intends to encourage strongly the mobile industry to provide voluntarily QoS Information.
- 6.2 Ofcom's decision is based on a variety of factors and information, including results of consumer research, stakeholder opinion, European requirements and regulatory parallels, economic arguments (as provided in the original consultation) and a history of working with QoS reporting schemes. Ofcom is utilising what it believes to be the least intrusive means of regulation in order to ensure that genuinely useful information is made widely available.
- 6.3 A part of ensuring that the information is well chosen, efficiently derived, and effectively distributed, is by utilising co-regulation. By involving stakeholders, Ofcom believes that the best possible information product can be made available in the most efficient manner. However, Ofcom believes that a base of QoS Information should be set for the fixed line industry in order to ensure a minimum level of information will be available. Therefore Ofcom is proposing to set basic reporting QoS Parameters, and these are given below.
- 6.4 In order to implement its objective of providing End-Users with adequate, timely, and comparable information about the quality of fixed line service provision, Ofcom is issuing a Notification and draft Direction under section 49 of the Act and under GC 21, at Annex 1.
- 6.5 Ofcom is not proposing that Fixed Line Service Providers provide a greater amount of information from individual Communications Providers than was previously expected from the CPI Scheme. Ofcom sets out its reasons for this in the Statement (e.g. see Section 3 above). Generally, Ofcom is seeking a cost-effective solution to providing what it believes to be the basic QoS Parameters needed to properly inform End-Users.
- 6.6 This section and the reasoning contained in it should be read with the previous Consultation Document, in particular Chapter 5, and the attached Statement, on providing QoS Information to End-Users. It provides details of Ofcom's proposal for setting QoS Parameters.

Proposed Parameters for fixed-line service providers

- 6.7 Ofcom proposes that the information to be provided shall be certain parameters set out in the ETSI guide EG 201 769 (ETSI Guide)¹⁷. This is appropriate as Sections 4 (9) and (10) of the Act require Ofcom to encourage compliance with ETSI standards. Also, in order to secure freedom of choice for the customers of Communications Providers, the USD sets out in Article 22, which GC 21 seeks to implement, that the parameters on which NRAs should base the QoS Information be as set out in the ETSI Guide. The proposed QoS Parameters from the ETSI Guide are:

¹⁷ ETSI guide EG 201 769 is found as Annex 3

- supply time for initial completion (i.e. order completion);
- fault rate per access line;
- fault repair time; and
- bill correctness complaints (i.e. billing accuracy).

6.8 In addition, Ofcom proposes that Fixed Line Service Providers shall provide a Parameter for complaint handling (ie how promptly complaints are resolved by the Communications Provider). Ofcom also proposes a parameter for the number of Consumer disconnections by the Communications Provider for non-payment. Ofcom proposes to limit the disconnections parameter to Consumers (i.e. not extend to End-Users) as this group may be more vulnerable to a loss of service due to financial problems.

Reasons for setting these proposed Parameters

6.9 Ofcom considers that the proposed QoS Parameters will provide sufficiently comprehensive information to End-Users in order to meet its objectives set out in sections 3 and 4 of the Act. These parameters capture the main points of contact between Fixed Line Service Providers and the End-User i.e. ordering, fault repair, complaint handling, and billing. If one or more of these parameters are dropped, Ofcom considers that this would create a gap in the logical service provision cycle.

6.10 The proposed disconnections Parameter is a legacy measurement¹⁸ that is targeted at Fixed Line Service Providers providing services to their Consumers. The Parameter shows the number of Consumer disconnections for non-payment of their bills. Ofcom believes that it continues to play a valuable role in informing Consumers. Ofcom considers that the availability of this information should:

- promote responsible behaviour by Fixed Line Service Providers;
- strengthen Consumers' awareness of company procedures in these
- areas; and,
- promote good customer service.

6.11 The proposed complaint resolution Parameter is a measure of the promptness that a Fixed Line Service Provider resolves End-User complaints. Resolution means that the Fixed Line Service Provider and the End-User are satisfied with the outcome of the complaint without the use of an Alternate Dispute Resolution Scheme. This was a parameter previously used by the CPI Scheme.

6.12 These proposed Parameters are similar to those that were produced through the CPI Scheme. The proposed frequency and methods of publication would also remain similar to that scheme (see 6.22, 6.23 below).

Suggested customer satisfaction Parameter

6.13 Ofcom encourages the fixed line industry also to set a parameter for the general customer satisfaction level. This would be a single measurement of the End-Users' experience of using the service.

¹⁸ Oftel required this measure for some years

A Statement on providing quality of service information to consumers

6.14 The general customer satisfaction parameter would capture the End-Users' view of the delivered service in general. This would allow End-Users to compare information that is derived from operator data with a figure derived from End-User opinion. A single figure also has the advantage of providing an easy-to-use reference.

6.15 A single satisfaction parameter would be a reduction from the original CPI requirement and would lower the cost of providing this information for existing CPI participants.

Question 1: *do you believe that the proposed Parameters will provide sufficient QoS Information to End-Users? Please explain.*

Question 2: *do you believe a customer satisfaction parameter(s) is necessary to capture providers' QoS offerings? Please explain.*

Reasons for not adopting further Parameters

6.16 There are further parameters that are provided in the ETSI Guide that Ofcom proposes not to require under GC 21 to be reported and published by Fixed Line Service Providers (except for BT and Kingston Communications, as they are obliged to provide this information as designated universal service providers)¹⁹. The extra parameters are:

- unsuccessful call ratio;
- call set up time;
- response times for operator services;
- response times for directory enquiry services; and,
- proportion of coin and card operated public pay telephones in working order.

6.17 Ofcom believes that the measurement of these service parameters on Fixed Line Service Providers would place a disproportionate burden on them. Ofcom's quarterly research results do not show an overwhelming End-User requirement for this specific information²⁰. Further, the CPI Schemes did not provide this information. It is also important to ensure that the available information is user-friendly and so the quantity of information should be controlled.

6.18 The fixed CPI Scheme included general customer satisfaction Parameters for these service parameters. Some of the smaller CPI members (i.e. those Communications Providers who had signed up to the CPI Scheme ('CPI Members')) often had difficulty generating significant test cases in order to derive a statistically significant sample (i.e. there were not enough events to give an accurate picture). The cost of providing this particular information was an ongoing issue with CPI Members. Also, Ofcom considers that the provision of these Parameters brings into question the overall amount of data being offered to End-Users and that, at present, it is too much information for End-Users to understand easily and put in use.

¹⁹ http://www.ofcom.org.uk/static/archive/oftel/publications/eu_directives/2003/uso0703.pdf
²⁰ <http://www.ofcom.org.uk/static/archive/oftel/consumer/about/research/index.htm>

Parameter details

- 6.19 Ofcom is not proposing to prescribe the exact measurement, audit, or publication processes. Through membership in the Co-regulatory Group, Ofcom will help industry to construct processes that are effective and robust, but the responsibilities of design, checking, and delivery must rest with this group. However, Ofcom reserves the right to intervene should it prove necessary.
- 6.20 It is imperative that the Parameters keep pace with technology and the services offered. Responsibility for keeping pace with new products and sector developments will rest with the Co-regulatory Group.
- 6.21 Ofcom will seek agreement with stakeholders on the withdrawal and/or addition of information requirements.

Proposed publication requirement

- 6.22 Ofcom proposes that the frequency of publication of the QoS Parameter shall be at a frequency of no more than six months, and the first publication be no later than six months from the publication of the Direction.
- 6.23 Ofcom proposes that the method of publication shall be at least on an independent website; meaning that it will not be hosted by Ofcom or by any individual Communications Provider. Information made available in different formats should be made available on request (for example, paper copies). All information should meet the needs - upon request - of those End-Users with a disability. Therefore, Ofcom proposes that the QoS Parameter information should be available at least in large print and in Braille upon request. All such information must be provided free of charge to the End-User. Finally, the publications should also endeavour to use Plain English.

Exemptions from a regulatory requirement for providing QoS Information

- 6.24 Ofcom proposes that there should be three basic exemptions whereby a Fixed Line Service Provider will not need to provide comparable QoS Information:
1. Fixed Line Service Providers who have been providing PECS in the UK for less than 18 months. This does not include companies that have simply been re-branded.
 2. Fixed Line Service Providers that do not meet an operating threshold and are deemed too small to participate. The proposed thresholds are initially set at £4 million in net revenues per quarter and 100 million minutes of calls handled to End-Users.
 3. Fixed Line Service Providers in receivership or administration in the UK.
- 6.25 The first exemption avoids placing an undue burden on new entrants and allows a period for setting up the necessary internal data collection systems. This reflects the requirement on Ofcom set out in GC 21.3 to only make such a direction apply to a Communications Provider which has been providing PECS at least 18 months prior to the Direction being made but extends it to apply to all Communications Providers which have been providing PECS in the UK for less than 18 months. As stated by the Director in Oftel's Final Statement on the General Conditions of Entitlement, published

on 9 July 2003, the purpose of GC 21.3 is to allow new entrants – or previous entrants who did not meet the minimum thresholds for reporting – sufficient time to tailor their QoS data gathering and extraction systems so that they can meet regulatory requirements.²¹ The Director goes on to clarify that a change in the means of providing the service or the addition/subtraction/reconfiguration of services is unlikely to constitute a new service provision. Likewise, a reconfiguration of the Communications Provider through merger, acquisition, business strategy or branding exercise will not. Ofcom will have to consider each case individually.

6.26 The second exemption avoids excessive demands on smaller Fixed Line Service Providers, without which the proposed regulation could be viewed as both disproportionate and as a barrier to them entering the market. Such smaller providers may also run into difficulties in evaluating their performances from a statistical standpoint owing to their lower volumes. The current threshold for the fixed-line CPIs shall be used in the first instance. As mentioned by Your Communications:

“Care needs to be taken... that the burden to small operators is not excessive and that consideration is given to their needs. This could be achieved by a rigorous set of thresholds that need to be passed before the operator needs to publish. This set of thresholds should also be applicable to larger operators who may be introducing new products and services and would allow some degree of market maturation to be applied before reporting.”

6.27 The third exemption is proposed in order to protect against placing a disproportionate burden upon a Fixed Line Service Provider who are in a degree of financial difficulty.

Question 3: Do you agree with the exemptions to reporting/publishing QoS Information? Please explain.

Communications Act tests

6.28 In making decisions, Ofcom is required to meet various tests set out in the Act. As part of this consultation, Ofcom has set out in the previous Sections how it has considered its section 3 and 4 of the Act.

Section 49. The setting of directions

6.29 Ofcom also has to ensure, as required by section 49 of the Act, that any direction it gives is:

- objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
- not unduly discriminatory against particular persons or against a particular description of persons;
- proportionate to what it is intended to achieve; and,
- transparent in relation to what it is intended to achieve.

6.30 Ofcom considers that the proposals contained in this draft Direction meet the tests set out in Section 49 of the Act. That is,

- Ofcom considers that the proposals are objectively justifiable in relation to furthering the interests of citizen-consumers in respect of choice, price, quality of service and

²¹ At paragraph 3.157.

value for money. The Consultation Document and this Statement have provided evidence which proves that there is a requirement for this information. Without it, Consumers will not have sufficient information to make an informed purchasing decision. Also, an important element of competition in the market place will be lost i.e. publicly available comparable QoS Information.

- Ofcom also considers that the proposals are not unduly discriminatory against particular persons, as the requirement to provide QoS Information will only be placed on those Fixed Line Service Providers who meet a threshold; that is, those larger and more established fixed-line providers. Ofcom believes that only the fixed line industry of the type set out in this Notification and draft Direction has proved itself incapable of providing consistent and thorough information on a voluntary basis, and therefore the Direction only pertains to those identified Fixed Line Service Providers;
- the draft Direction clearly sets out the requirements to be imposed on certain Fixed Line Service Providers and therefore it meets the requirements of transparency. Ofcom also believes that the proposals are transparent in what they are intended to achieve (comparable and widely-available consumer information); and,
- Ofcom considers that the proposals are the least intrusive means of ensuring that those aims set out in paragraph 2.12 to 2.18 and section 6 of the Statement will be met by those Fixed Line Service Providers who are capable of delivering such information. Ofcom is not however imposing wider requirements on individual Fixed Line Service Providers than is already required by the CPI Scheme e.g. by requiring the publication of all the parameters set out in the ETSI Guide. Therefore, Ofcom believes that its proposals are proportionate to what it intends to achieve.

Date from which these proposals will take effect

- 6.31 Ofcom proposes that the requirement to collect and report QoS Information will take effect from the date of the publication of the final Direction. However, Ofcom is aware that extra time will be required for the Co-regulatory Groups to establish effective working procedures, reach a common testing specification, agree an audit body and method, and work towards publication (amongst other tasks). Ofcom proposes that this process does not take longer than six months from the date of the final Direction. A further six months of data collection will also be likely before a set of results would be available to End-Users.

Question 4: *Is the proposed timeline too short or too long a period? Please explain.*

Section 7

Conclusions

- 7.1 Ofcom is committed to safeguarding the interests of citizen-consumers. The provision of information is central to this objective.
- 7.2 As such, Ofcom is taking a proactive approach to the provision of QoS Information in the UK. The majority of respondents – including a majority of service providers – want to see Ofcom take a more active role in ensuring that adequate and comparable information is made available to End-Users. Consumer and industry groups are in favour of Ofcom promoting the provision of this information. The PAC and the NAO also wish to see Ofcom ensure that adequate information is made available to End-Users.
- 7.3 Research makes it clear that a large number of End-Users – both residential and business – are not satisfied with their telecommunications services and this dissatisfaction is greater for certain aspects of service delivery and also for certain types of consumers.
- 7.4 There is also evidence that there are significant differences in the quality that is delivered to End-Users and this is (at least partly) reflected in consumers' ratings of these services. At the same time, the number of End-Users switching providers remains an overall minority. Ofcom believes that the information will promote switching behaviour and spur competition.
- 7.5 The small amount of alternative information that is available is insufficient for End-Users to make a properly-informed switching or purchasing decision. Reliance on this impartial information introduces a danger that End-Users will be confused, misled, or deceived by those poorer-performing service providers. Further, the time it would take to identify a quality service provider (i.e. search cost) would be higher and this would inhibit switching behaviour.
- 7.6 Current availability of information is important. Competition is likely to be on the increase - through WLR and IA operators and with the introduction of a fifth Mobile Service Provider - and so it is important that End-Users have access to reliable and comparable QoS Information.
- 7.7 Ofcom's objective is to help consumers to exercise choice based on reliable and accurate information. In time, this may well have a positive impact upon the QoS provided to all End-Users as stronger competition to provide a better service takes hold.

Section 8

Next steps

- 8.1 This document includes a Notification of a draft Direction and the draft Direction at Annex 1. This Notification begins a consultation period regarding Ofcom's draft Direction. Interested parties may respond to Ofcom's consultation using the contact details below by 4 October 2004.
- 8.2 Once Ofcom has considered any representations made within the period to 4 October 2004, they may give effect to the proposals, with or without modifications, by publishing a final Explanatory Statement and Direction. It is proposed that following publication of the Direction, Fixed Line Communications Providers as outlined in this document will have a period of up to six months to implement the requirements. Publication of information will follow within six months of implementation.
- 8.3 Following the publication of the final Explanatory Statement and Direction, Ofcom's intention is to be involved in the process of establishing Co-regulatory Groups. These groups' will be tasked with the effective operation of schemes that provide adequate, timely, and accessible QoS Information. As such, Ofcom will be hosting an initial stakeholders meeting with a view to establishing membership, working practices and timescales for delivery. Ofcom will invite all respondents to the consultation and is opening this invitation to other stakeholders who may wish to become involved.

Annex 1

Notification and Draft Direction

Notification of a proposal under section 49 of the Communications Act 2003

Proposal for making a Direction under General Condition 21 in Part 2 of the Schedule to the notification setting general conditions under section 45 of the Communications Act 2003, issued by the Director General of Telecommunications on 22 July 2003

1. Ofcom hereby makes, in accordance with section 49 of the Communications Act 2003 ('the Act'), the following proposal for a Direction to be given under General Condition 21 in Part 2 of the Schedule to the notification setting general conditions under section 45 of the Communications Act 2003, issued by the Director General of Telecommunications on 22 July 2003.
2. The draft Direction is set out in the Schedule to this Notification.
3. The effect of the draft Direction, and the reasons for making the proposal, are set out in the accompanying explanatory Statement.
4. Representation may be made to Ofcom about the proposed draft Direction by 4 October 2004.
5. In accordance with section 50 of the Act and as Ofcom considers it appropriate to do so, copies of this Notification have been sent to the Secretary of State, the European Commission and to the regulatory authorities of every other Member State.

Tim Suter
Partner, Content and Standards

A person authorised by Ofcom under paragraph 18 of the Schedule to the Office of Communications Act 2002

1 September 2004

Schedule

[Draft] Direction under General Condition 21 requiring specified Communications Providers which provide Publicly Available Telephone Services over a Public Telephone Network at a fixed location to provide quality of service information

Direction under General Condition 21.1 on Quality of Service

WHEREAS:

- A. the Director General of Telecommunications (the 'Director') issued on 22 July 2003 the General Conditions Notification, which took effect on 25 July 2003 by way of publication of a notification pursuant to section 48(1) of the Act;
- B. General Condition 21.1 in Part 2 of the Schedule to the General Conditions Notification provides that Communication Providers shall, on the direction of Ofcom, publish comparable, adequate and up to date information for End-Users on the quality of its service;
- C. OFCOM issued a notification on 1 September 2004 pursuant to section 49(4) of the Act (the 'Notification') of a proposal to give a Direction under Condition 21.1 directing the appropriate quality of service information to be published;
- D. in the Notification and accompanying explanatory Statement, OFCOM invited representations about any of the proposals therein by 4 October 2004;
- E. a copy of the Notification was sent to the Secretary of State, the European Commission and to the regulatory authorities of every other Member State as Ofcom considered it appropriate to do so in accordance with section 50 of the Act;
- F. by virtue of section 49(9) of the Act, OFCOM may give effect to the proposal set out in the Notification, with or without modification, only if:
 - they have considered every representation about the proposal that is made to them within the period specified in the notification; and
 - they have had regard to every international obligation of the United Kingdom (if any) which has been notified to them for this purpose by the Secretary of State;
- G. OFCOM received responses to the Notification and have considered every such representation made to them in respect of the proposals set out in the Notification and accompanying consultation document and the Secretary of State has not notified OFCOM of any international obligation of the United Kingdom for this purpose;
- H. for the reasons set out in Sections 3, 4, 5 and 6 of the explanatory Statement accompanying this Direction, OFCOM are satisfied that, in accordance with section 49(2) of the Act, this Direction is:
 - i. objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
 - ii. not such as to discriminate unduly against particular persons or against a particular description of persons;
 - iii. proportionate to what it is intended to achieve; and

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iv. in relation to what it is intended to achieve, transparent;

- I. If for the reasons set out in Sections 3, 4, 5 and 6 of the explanatory Statement accompanying this Direction, OFCOM are satisfied that they have acted in accordance with the relevant duties set out in sections 3 and 4 of the Act; and

Therefore, pursuant to section 49 and General Condition 21.1 in Part 2 of the Schedule to the General Conditions Notification, OFCOM gives the following Direction:

1. A Communications Provider must publish the following Quality of Service Parameters:
- a. the ETSI Guide Information;
 - b. the number of Consumers disconnected for non-payment of bills; and
 - c. the time for End-User complaints received by the Communications Provider to be resolved;

unless the Communications Provider has been providing Public Electronic Communication Services in the UK for less than 18 months or are in either receivership or administration in the UK.

2. The frequency of publication of the Quality of Service Parameters set out in paragraph 1 above shall be at least every six months from the date of the first publication, the first publication being not later than six months from the date this Direction is published.
3. The method of publication of the Quality of Service Parameters set out in paragraph 1 above shall be at least: on an independent website; available in large print; and, available in Braille.
4. The publication of the Quality of Service Parameters set out in paragraph 1 above shall be provided free of charge to the End-User.
5. For the purpose of interpreting this Direction, the following definitions shall apply:
- a. “**Act**” means the Communications Act 2003;
 - b. “**Consumer**” means any natural person who uses or requests a Public Electronic Communications Service for purposes which are outside his or her trade, business or profession;
 - c. “**Communications Provider**” means a person providing Publicly Available Telephone Services by means of a Public Telephone Network at a fixed location which has at least £4 million in net revenues per quarter and 100 million minutes of calls handled to End-Users;
 - d. “**Director**” means the Director General of Telecommunications as appointed under section 1 of the Telecommunications Act 1984;
 - e. “**ETSI Guide Information**” means certain quality of service parameters as set out in the ETSI guide EG 201 769; namely:

- a. supply time for initial connection
 - b. fault rate per access line;
 - c. fault repair time; and
 - d. bill correctness complaints;
 - f. **“General Conditions Notification”** means the notification setting general conditions under section 45 of the Communications Act 2003, issued by the Director on 22 July 2003;
 - g. **“OFCOM”** means the Office of Communications as established under section 1 of the Communications Act 2003;
 - h. **“Notification”** means the notification referred to in recital (C) of this Direction above;
 - i. **“Public Telephone Network”** means an Electronic Communications Network which is used to provide Publicly Available Telephone Services; it supports the transfer between Network Termination Points of speech communications, and also other forms of communication, such as facsimile and data;
 - j. **“Publicly Available Telephone Services”** means a service available to the public for originating and receiving national and international calls and access to Emergency Organisations through a number or numbers in a national or international telephone numbering plan, and in addition may, where relevant, include one or more of the following services: the provision of operator assistance services, Directory Enquiry Facilities, Directories, provision of Public Pay Telephones, provision of service under special terms, provision of specific facilities for End-Users with disabilities or with special social needs and/or the provision of non-geographic services;
 - k. **“Quality of Service Parameters”** means those parameters as referred to in paragraph 1 (a) to (c) above.
6. Except insofar as the context otherwise requires, words or expressions shall have the meaning assigned to them in this Notification (including in the Parts) and otherwise any word or expression shall have the same meaning it has in the General Conditions Notification (including in the Annexes) and otherwise any word or expression shall have the same meaning as it has in the Act.
7. For the purpose of interpreting this Direction:
- a. headings and titles shall be disregarded; and
 - b. the Interpretation Act 1978 (c. 30) shall apply as if this Direction were an Act of Parliament.
8. This Direction shall take effect on the day it is published.

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Tim Suter
Partner, Content and Standards

A person authorised by Ofcom under paragraph 18 of the Schedule to the Office of Communications Act 2002

1 September 2004

Annex 2

Summary table of respondents'

Respondent	Option 1	Option 2	Option 3	Option 4	Summary of response
Age Concern			Yes		QoS Information is important and support option 3 as it would increase participation
Antelope Consulting			Ok	Yes	QoS Information is important and supports option 4 but with a co-regulatory framework
BABT			Yes		QoS Information is important and supports option 3. Support a merge with the metering and billing scheme
BSI			Yes	Ok	QoS Information is important and supports option 3. Support a merge with the metering and billing scheme
BT	Ok	Ok			QoS Information is important, but do not want to see an extension of regulation in order to make it available. Suggest an Ofcom "signposting" role and a merge with the PASS scheme
Consumer Communications for England (CCE)			Yes		QoS Information is important and support option 3. Support co-regulation

preferences²²

²² This table provides a general summation of the non-confidential consultation responses and reflects Ofcom's understanding of stakeholder views.

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Respondent	Option 1	Option 2	Option 3	Option 4	Summary of response
Confederation for Business (CfB)			Yes		QoS Information is important and support option 3. Support co-regulation
Communications Workers Union (CWU)			Ok	Ok	QoS Information is important, and believes that greater regulatory involvement is necessary. Support co-regulation.
DIEL			Yes	Ok	QoS Information is important. Want an extension into aspects of services for disabled persons (GC15). Support co-regulation
Energis			Yes		QoS Information is vital to competition and is important to consumers. Support option 3 and co-regulation and wants (larger) corporate service provider involvement
Enigma			Yes		QoS Information is important and support option 3 but with significant penalties for non-conformers. Support an expansion to most communication services

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Kingston Communications			Yes		QoS Information is important and support option 3. Co-regulation is vital
MCI			Yes		QoS Information is important and support option 3. Co-regulation is vital
National Consumer Council (NCC)			Yes		QoS Information is important and support option 3. Co-regulation is vital
NTL	Yes		Ok		QoS Information is important, but not necessarily comparable. Prefer option 1 (allowing CSPs to do their own thing) but will support option 3
O2	Ok	Ok			Does not believe sufficient proof exists for regulatory intervention. Suggests that further evidence is gathered
Orange	Ok	Ok			Wishes to see further evidence proving consumer demand for information. But supports co-regulation and a voluntary membership (i.e. option 2)
RNIB			Ok		QoS Information is important and support greater regulatory intervention. Support expansion of aspects to include services for disabled consumers
Roscom		Ok	Ok		QoS Information is best provided by an independent test facility.

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Sacot			Yes	Ok	QoS Information is important to consumers and to for the level of competition in the market. Supports greater regulatory intervention (either option 3 or 4)
UKCTA			Yes		QoS Information is essential and supports option 3
UniTech			Yes	Ok	QoS Information is important and supports greater regulatory intervention to ensure its delivery. Prefers option 3 and co-regulation
Vodafone	Ok	Ok			Believe there is an argument for providing QoS Information, but do not agree with all theoretical arguments given for delivering this information
Your Communication		Ok	Yes		QoS Information is important and support option 3. Favour co-regulation
Local Councillor			Ok	Yes	QoS Information is important and favours option 4

Annex 3

General Condition 21

- 21.1 The Communications Provider shall, on the direction of the Director, publish comparable, adequate and up to date information for End-Users on the quality of its services.
- 21.2 Subject to paragraph 21.3, where the Director makes a direction under paragraph 21.1 he may amongst other things direct:
- a. the quality of service parameters to be measured;
 - b. the content and form of the information to be published, and how the comparability of the information is to be validated. For the purposes of validation, the Director may require independent audit of the specified information;
 - c. the manner of publication of the information;
 - d. the timing of publication of the information; and/or
 - e. that the Communications Provider shall provide the Director with a copy of the information to be published well in advance of the publication as agreed by the Director.
- 21.3 The Director shall only make such a direction where the Communications Provider has been providing the Public Electronic Communication Services in question for at least 18 months prior to the direction being made.
- 21.4 For the purposes of this Condition, "Communications Provider" means a person who provides Public Electronic Communications Services.

Annex 4

ETSI Guide 201 769

Supply time for initial connection
Fault rate per access line
Fault repair time
Unsuccessful call ratio*
Call set up time*
Response times for operator services
Response times for directory enquiry services
Proportion of coin and card operated public pay telephones in working order
Bill correctness complaints

Quality of Service Parameters²³

* Member States may decide not to require that up-to-date information concerning the performance for these two parameters be kept, if evidence is available to show that performance in these two areas is satisfactory.

²³ Parameters should allow for performance to be analysed at a regional level (i.e. no less than Level 2 in the Nomenclature of Territorial Units for Statistics (NUTS) established by Eurostat).

Annex 5

Ofcom's consultation principles

Ofcom has published the following seven principles that it will follow for each public written consultation:

Before the consultation

1. Where possible, we will hold informal talks with people and organisations before announcing a big consultation to find out whether we are thinking in the right direction. If we do not have enough time to do this, we will hold an open meeting to explain our proposals shortly after announcing the consultation.

During the consultation

2. We will be clear about who we are consulting, why, on what questions and for how long.
3. We will make the consultation document as short and simple as possible with a summary of no more than two pages. We will try to make it as easy as possible to give us a written response. If the consultation is complicated, we may provide a shortened version for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.
4. We will normally allow ten weeks for responses to consultations on issues of general interest.
5. There will be a person within Ofcom who will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organisations interested in the outcome of our decisions. This individual (who we call the consultation champion) will also be the main person to contact with views on the way we run our consultations.
6. If we are not able to follow one of these principles, we will explain why. This may be because a particular issue is urgent. If we need to reduce the amount of time we have set aside for a consultation, we will let those concerned know beforehand that this is a 'red flag consultation' which needs their urgent attention.

After the consultation

7. We will look at each response carefully and with an open mind. We will give reasons for our decisions and will give an account of how the views of those concerned helped shape those decisions.

Annex 6

Responding to this consultation

How to respond

Ofcom invites written views and comments on the issues raised in this document, to be made by **4 October 2004**.

Ofcom strongly prefers to receive responses as e-mail attachments, in Microsoft Word format, as this helps us to process the responses quickly and efficiently. We would also be grateful if you could assist us by completing a response cover sheet to indicate whether or not there are confidentiality issues. The cover sheet is attached or can be downloaded from the 'Consultations' section of our website.

Please can you send your response to chris.smithers@ofcom.org.uk.

Responses may alternatively be posted or faxed to the address below, marked with the title of the consultation.

Chris Smithers
Policy Executive
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA
Fax: 020 7981 3333

Note that we do not need a hard copy in addition to an electronic version. Also note that Ofcom will not routinely acknowledge receipt of responses.

It would be helpful if you can explain why you hold your views, and how Ofcom's proposals would impact on you.

Further information

If you have any questions about the issues raised in this consultation, or need advice on the appropriate form of response, please contact Chris Smithers on 020 7981 3858.

Confidentiality

Ofcom thinks it is important for everyone interested in an issue to see the views expressed by consultation respondents. We will therefore usually publish all responses on our website, www.ofcom.org.uk, as soon as possible after the consultation period has ended.

All comments will be treated as non-confidential unless respondents specify that part or all of the response is confidential and should not be disclosed. Please place any confidential parts of a response in a separate annex, so that non-confidential parts may be published along with the respondent's identity.

Ofcom reserves its power to disclose certain confidential information where this is necessary to fulfil its functions, although in practice it would do so only in limited circumstances.

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Please also note that copyright in responses will be assumed to be assigned to Ofcom unless specifically retained.

Next steps

Following the end of the consultation period, Ofcom intends to publish a final Statement and notification in autumn 2004.

Please note that you can register to get automatic notifications of when Ofcom documents are published, at http://www.ofcom.org.uk/static/subscribe/select_list.htm.

Ofcom's consultation processes

Ofcom is keen to make responding to consultations easy, and has published some consultation principles (see below) which it seeks to follow, including on the length of consultations.

If you have any comments or suggestions on how Ofcom conducts its consultations, please call our consultation helpdesk on 020 7981 3003 or e-mail us at consult@ofcom.org.uk. We would particularly welcome thoughts on how Ofcom could more effectively seek the views of those groups or individuals, such as small businesses or particular types of residential consumers, whose views are less likely to be obtained in a formal consultation.

If you would like to discuss these issues, or Ofcom's consultation processes

more generally, you can alternatively contact Philip Rutnam, Partner, Competition and Strategic Resources, who is Ofcom's consultation champion:

Philip Rutnam
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA
Tel: 020 7981 3585
Fax: 020 7981 3333
E-mail: philip.rutnam@ofcom.org.uk

Cover sheet for response to an Ofcom consultation

BASIC DETAILS

Consultation title: A Statement on providing quality of service information to consumers

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

What do you want Ofcom to keep confidential?

Nothing Name/contact details/job title

Whole response Organisation

Part of the response If there is no separate annex, which parts?

If you want part of your response, your name or your organisation to be confidential, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response. It can be published in full on Ofcom's website, unless otherwise specified on this cover sheet, and I authorise Ofcom to make use of the information in this response to meet its legal requirements. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

A Statement on providing quality of service information to consumers